

## REMARKS

1. Applicant thanks the Examiner for pointing out the allowable subject matter of Claims 7 – 15, 18 – 25, and 26.

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2. It should be appreciated that Applicant has elected to amend Claims 1, 2, 4, 7, 9, 10, 16, 23 and 24 solely for the purpose of expediting the patent application process in a manner consistent with the PTO's Patent Business Goals, 65 Fed. Reg. 54603 (9/8/00). In making such amendments, Applicant has not and does not in any way narrow the scope of protection to which Applicant considers the invention herein to be entitled. Rather, Applicant reserves Applicant's right to pursue such protection at a later point in time and merely seeks to pursue protection for the subject matter presented in this submission.

10 3. Claim 1 stands rejected under 35 USC § 102(b) as being anticipated by U.S. Patent No. 5,710,713 ("Wright"). Applicant has amended Claim 1 to distinguish it from the cited reference more thoroughly. As amended, Claim 1 describes:

"A method of characterizing spectrometer instruments according to instrument variation, comprising the steps of:

20 providing standard spectra from a spectrometer instrument;  
classifying said spectrometer instrument into at least one of a plurality of predefined clusters on the basis of features extracted from said spectra; and  
providing at least one calibration model for each of said predefined clusters that models instrumental variation of instruments classified to the cluster."

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Support for the amendment is found in the specification at page 4, line 23 to page 5, line 7

Wright is directed to creation of standardized spectral libraries and identifying a sample by searching the standardized library for a match with the sample spectrum. The method entails 30 determining and applying a transfer function which equalizes instrument bias between and within instruments over time. Thus, a transfer function is determined for an instrument by comparing its spectra with those of an unbiased standard. The transfer function is then applied to subsequent sample measurements to unbias the measurement, that is, the sample spectrum is altered to make it resemble the standard library, and then it is matched 35 to an unbiased spectrum from the library for a quantitation step. Wright does not contemplate classifying of spectrometer instruments into predefined clusters or provision of

calibration models for each cluster that model instrument variation.

In stark contrast, the current invention is unconcerned with development of standardized libraries or with equalization of instrument bias. As amended, Claim 1 describes a step of classifying a spectrometer instrument into one of many predefined clusters, and providing calibration models that model instrument variation. Accordingly, the rejection of Claim 1 under 35 USC § 102(b) and all Claims depending therefrom is deemed to be overcome.

4. Claim 2 is objected to because subject matter is provided in parentheses.

10 Accordingly, Claim 2 has been amended to omit the parentheses and the subject matter therein.

15 5. Several Claims have been amended to correct misspellings and typographical errors and to correct their dependencies.

6. New Claims 27 – 63 are added to the Application. Applicant certifies that no new matter was added by way of the new Claims.

## **CONCLUSION**

20 In view of the above, the application is deemed to be in allowable condition. As such, the  
Examiner is earnestly requested to withdraw all objections and rejections and allow the  
Application to pass to issue as a U.S. Patent. Should the Examiner have any questions  
regarding the Application, she is urged to contact the Applicant's attorney at the telephone  
25 number given below.

Respectfully submitted,

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Req. No. 30.176

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